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**AUG 23 2007**

**OFFICE OF PETITIONS**

In re Application of :  
Holt et al. :  
Application Number: 10/674882 : DECISION ON PETITION  
Filing Date: 09/30/2003 :  
Attorney Docket Number: :  
180825.00044 :

This is a decision in reference to the "Petition For Withdrawal of Abandonment under 37 CFR 1.181" filed on 15 December, 2005.

The Office apologizes for the delay in responding to the present petition.

The petition is **GRANTED**.

On 30 September, 2003, the application was filed.

On 29 January, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring the statutory basic filing fee, an executed oath or declaration, a surcharge for their late filing, and a replacement abstract.

On 19 March, 2004, the basic filing fee and surcharge, an executed oath or declaration naming Robert Holt and David J. Haas as joint inventors, and replacement abstract were filed.

On 7 July, 2005, a letter requesting express abandonment signed only by joint inventor Haas was filed.

On 6 September, 2005, a Notice of Abandonment was mailed.

Petitioners request that the holding of abandonment be withdrawn. Petitioners assert that the letter filed on 7 July, 2005, was not properly signed and should not be considered a proper express abandonment.

37 CFR 1.138(b) states:

A written declaration of abandonment must be signed by a party authorized under § 1.33(b)(1), (b)(3), or (b)(4) to sign a paper in the application, except as otherwise provided in this paragraph. A registered attorney or agent, not of record, who acts in a representative capacity under the provisions of § 1.34(a) when filing a continuing application, may expressly abandon the prior application as of the filing date granted to the continuing application.

MPEP 711.01 states that an express or formal abandonment may be made by the applicant (acquiesced in by an assignee of record), or the attorney or agent of record, or a registered attorney or agent acting in a representative capacity under 37 CFR 1.34(a) when filing a continuing application.

As the letter filed on 7 July, 2005, was not signed by all of the applicants, the assignee of the entire interest, or by a registered practitioner, the letter was not effective as an express abandonment.

As such, the holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application is being referred to Technology Center Art Unit 2841 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



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